

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

LAURA L. GUENTHER,

Plaintiff,

v.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

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No: 5:21-cv-04021-KDW

ORDER

Plaintiff Laura L. Guenther brought this action to obtain judicial review of a partially favorable administrative decision of Defendant Acting Commissioner of Social Security regarding Plaintiff's claims for disability insurance benefits and supplemental social security income. *See* 42 U.S.C. § 405(g). On July 14, 2022, the court remanded the Commissioner's decision pursuant to sentence four of § 405(g) for further administrative proceedings. On remand, an administrative law judge issued a fully favorable decision dated January 27, 2023. *See* ECF No. 33-1 at 1.

This matter now is before the court on Plaintiff's Motion for Attorney's Fees, ECF No. 33, filed on May 2, 2023, for requested fees in the amount of \$11,196.97, representing 25% of Guenther's past due benefits, under the Social Security Act, 42 U.S.C. § 406(b). The Plaintiff's attorney has been granted fees by this Court in the amount of \$8,000.00, under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. On May 16, 2023, The Commissioner filed a Response, indicating that she neither supports nor opposes the request for attorney's fees in this case. ECF No. 35.

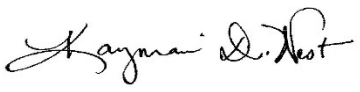
In the United States Supreme Court case of *Gisbrecht v. Barnhart*, 535 U.S. 780 (2002),

the Court held that the provision of the Social Security Act limiting attorney fees to 25% of past-due benefits does not displace contingent-fee agreements that are within such statutory ceiling and instructs courts to review for reasonableness fees yielded by such agreements. In addition, if the claimant has been awarded attorney fees under EAJA, the claimant's attorney must refund the lesser of the two fees to the claimant. *Id.* at 796.

Upon review of the materials submitted to the Court, the undersigned finds that Plaintiff counsel's request for attorney fees, \$11,196.97, is reasonable and therefore grants Plaintiff's Motion, ECF No. 33. Therefore, it is ordered that the Plaintiff's attorney may collect a fee of 25% of Plaintiff's past due benefits. Plaintiff's attorney must refund to Plaintiff the EAJA award of \$8,000.00.

IT IS SO ORDERED.

May 19, 2023
Florence, South Carolina


Kaymani D. West
United States Magistrate Judge